



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Matt Jesick, Case Manager
JL Joel Lawson, Associate Director Development Review

DATE: April 21, 2015

SUBJECT: BZA #18984 – 1546 New Jersey Avenue, NW

I. RECOMMENDATION

With regard to this proposal to convert an existing flat into a three-unit apartment building, the Office of Planning (OP) **cannot recommend approval** of the following relief:

- § 401 Lot Area (2,700 sf required, 2,255 sf existing and remaining);
- § 403 Lot Occupancy (65% permitted for conversion, 65% existing, 70% proposed);
- § 2001.3 Additions to Non-conforming Structures (Building must conform to lot occupancy; Must not extend an existing non-conformity. Non-conforming for lot occupancy; Increases non-conforming lot occupancy.).

II. LOCATION AND SITE DESCRIPTION

Address	1546 New Jersey Avenue, NW
Legal Description	Square 510, Lot 50
Ward and ANC	6, 6E
Lot Characteristics and Existing Development	The lot is a rectangular, flat lot, 20.5' wide by 110' deep. The existing rowhouse structure is used for a flat, and has two stories with no basement. There is an alley at the rear, but no parking spaces existing on the site.
Zoning	R-4, moderate density rowhouses (single family and flats are matter-of-right)
Historic District	None
Adjacent Properties and Neighborhood Character	Mostly rowhouses with a mix of small apartments, commercial and institutional.

III. PROJECT DESCRIPTION IN BRIEF

The applicant seeks zoning relief in order to construct a third floor addition, and to convert the existing flat into a three-unit apartment building. The building footprint would remain the same, but a new rear deck would increase lot occupancy.

IV. ZONING REQUIREMENTS AND REQUESTED RELIEF

The site is zoned R-4 (Single family or flat rowhouses). In order to develop as proposed, the application seeks zoning relief as noted in the table below.

Section	Requirement	Existing	Proposed	Relief
§ 400 Height	40', 3 stories	26.5', 2 stories	31', 3 stories	None required
§ 401 Lot Area	900 sf / unit	2,255 sf	No change 751.67 sf / unit	Requested
§ 401 Lot Width	No requirement for conversions	20.5'	No change	None required
§ 403 Lot Occupancy	Greater of 60% or the Lot Occ. as of the date of the conversion	65% (1,455.5 sf)	70% (1,589.5 sf)	Requested
§ 404 Rear Yard	20'	~39'	20'9"	None required
§ 405 Side Yard	None required	None	No change	None required
§ 2101 Parking	1 per 3 units	None	2 spaces	None required
§ 2001.3 Additions to Non-conforming Structures	Building must conform to lot occupancy; Must not extend an existing non-conformity	65% lot occupancy	Non-conforming for lot occ.; Increases lot occ.	Requested

V. ANALYSIS

In order to be granted a variance, the applicant must show that they meet the three part test described in § 3103.

1. Exceptional Situation Resulting in a Practical Difficulty

The subject property exhibits an exceptional condition in that it is in an extreme state of disrepair. The applicant has submitted a statement from a certified building inspector stating that the internal structure, external walls, roof, and electrical, plumbing and HVAC systems are all in need of extreme repair or complete reconstruction.

The applicant has also submitted cost estimates and sales estimates for 1) renovation of the current building envelope into a single family residence; 2) renovation of the current building envelope and maintaining the use as a flat; and 3) renovation and expansion of the current building envelope with a third story and converting the use to a three unit apartment. Of those three scenarios, the only one that doesn't result in a negative cash flow is number 3, the option proposed by the applicant. The implication of the cost study is that, given the purchase price for

the property, for the current owner to renovate the building the only scenario that makes financial sense is to convert the property to three units.

The entire analysis, however, is based on the purchase price. If the purchase price had been lower, a conforming solution – a two unit building – could have been undertaken and still found to be financially feasible. The applicant should provide evidence that the purchase price was equivalent to other “fixer-upper” rowhouses in the neighborhood. The applicant should also indicate whether the purchase price was based on a pro-forma that included an industry-standard contingency for unexpected repairs that could have accommodated extra rehab work. The purchase price should not be reflective of a development that, based on the size of the lot, is not permitted by zoning. Therefore, without the evidence requested above, the Office of Planning would find that the exceptional condition only results in a self-imposed practical difficulty in complying with the Zoning Regulations.

2. No Substantial Detriment to the Public Good

The conversion would not be likely to impact the public good. It would not substantially alter the character of the neighborhood, which already has a mix of some apartments together with single family residential. Also, the property, which currently has no on-site parking, would have two parking spaces under the proposal, increasing the overall availability of parking for the neighborhood. The proposed increase in lot occupancy would be very minor and would not be the result of an increase in the bulk of the building, but rather for the addition of two modestly-sized decks at the rear of the building. Furthermore, the renovation would improve a building in a dilapidated state and improve the neighborhood.

3. No Substantial Harm to the Zoning Regulations

Granting the requested relief would impair the intent of the Zoning Regulations. The “primary purpose [of the R-4 zone] shall be the stabilization of remaining one-family dwellings” and it “shall not be an apartment house district as contemplated under the General Residence (R-5) Districts...” (Zoning Regulations, §§ 330.2 and 330.3). More specifically, in text amendments approved in 2007, the Zoning Commission sought to limit these types of conversions by strengthening the language on minimum lot area and lot occupancy for apartment conversions. Furthermore, on its surface, the requested variance seems to try and justify a purchase price not in line with uses permitted in the R-4 zone. The purchase price should not include an assumption that the Zoning Regulations can be varied, or that the Regulations are a guarantor of a financial return.

VI. COMMUNITY COMMENTS

As of this writing, no ANC letter is in the record. However, the application materials indicate that the ANC voted to recommend approval of the project. The applicant has also submitted to the record a number of letters of support from nearby property owners.

VII. ATTACHMENT

1. Vicinity Map

Vicinity Map

